IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.CJ.

APPEAL NO. 622 OF 2006
IN
ARBITRATION PETITION NO.94 OF 2005

M/s.Maris Spinners Ltd. Unit II .. Appellant
v/s.
The Maharashtra State Co-operative Cotton Growers Marketing Federation .. Respondent

Mr.N. Jayaramanfor the appellant.

Mr.A.S.Gadkari for the respondent.

CORAM : R.M.LODHA &
S.A.BOBDE, JJ.

DATED : 21ST AUGUST, 2006.

P.C.

Heard.

2. As per the contract entered into between the appellant and the respondent, 2100 bales of NHH44 variety was to be supplied by the respondent to the appellant. The dispute relates to the 200 bales supplied by the respondent to the appellant. Though the counsel for the appellant submitted that the 200 bales of cotton supplied by the respondent were not of NHH44 quality, neither delivery note nor any other document was shown to us to prove that the supply of 200 bales of cotton were of NHH44 quality. Then the counsel for the appellant submitted that even if the supply of 200 bales of cotton by the appellant was of NHH44 quality, yet, it was inferior with regard to staple length and other specific quality

parameters and, thus, it was not obligatory upon the appellant to accept the 200 bales of cotton supplied by the respondent.

3. Bye-law 34 of East India Cotton Association provides that it is the responsibility of the purchaser to get the samples tested by the impartial surveyor. It is an admitted position that the appellant did not get the samples tested by the impartial surveyors of East India Cotton Association under Bye-law 34. In this backdrop, the finding of the learned Single Judge that the finding of the Arbitrator being finding of fact, cannot be disturbed, does not suffer from any legal infirmity warranting interference in appeal.

Appeal is dismissed in limine.

(R.M.LODHA, J.)

(S.A.BOBDE, J.)